IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21492 of 2004

Between:

Pothuluru Gram Panchayat, Pothuluru Village, Prathipadu Mandal,
East Godavari District, rep. by its Sarpanch Sri Panchadi Veera Venkata
Suryanarayana.

..... PETITIONER

AND

1 The District Panchayat Officer, East Godavari District, at Kakinada.
2 The Divisional Panchayat Officer, Peddapuram, East Godavari District.
3 The Extension Officer (PR& RD), Prathipadu Mandal, East Godavri District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in interfering to put the lease hold rights of fishing of Chinnacheruvu and Peddacheruvu of Pothuluru Village, Prathipadu Mandal, E.G.District in an extent of Ac. 1.90 cents and Ac. 9.00, respectively, in public auction, for the fasli 1414 to 1416, by the petitioner herein, without issuing orders as illegal, arbitrary and consequently direct the respondents to allow public auction to put the lease hold rights of Chinnacheruvu and Peddacheruvu of Pothuluru Village, Prathipadu Mandal, East Godavari District,

Counsel for the Petitioner:MR.POLISETTI RADHAKRISHNA

Counsel for Respondents.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

ORDER:

The petitioner claims to be Sarpanch of Pothuluru Gram Panchayat, filed the present writ petition questioning the action of the respondents in not allowing the Gram Panchayat to put public auction of fishing rights in Chinna Cheruvu and Pedda Cheruvu of Pothulur village.

The facts in brief are that the water in the tanks are not useful for human consumption and the Gram Panchayat is putting the lease hold rights of fishing in the said two tanks to open auction to get substantial amounts. That the Gram Panchayat has passed a resolution on

3-8-2004 and in pursuance thereof, the 2nd respondent vide proceedings dated 16-8-2004 has fixed the upset price of Chinna Cheruvu at Rs.61,500/- and for Pedda Cheruvu at Rs.1,40,000/- for three years from faslies 1414 to 1416. Thereupon, the auction was fixed on

30-10-2004 at 2-00 p.m. However, the 1st respondent issued a Telegram to the Secretary of the Gram Panchayat to the effect that the auction of Pedda Cheruvu scheduled to be held on 30-10-2004 shall be kept in abeyance until further orders. On receipt of the said telegram, the petitioner herein is stated to have approached the 1st respondent and filed a representation dated 29-10-2004 requesting not to interfere with the public auction, and in turn the 1st respondent issued proceedings in Roc No.3480/04-A4 dated 29-10-2004 permitting the Gram Panchayat to proceed with public auction and not to confirm the auction until further orders. In those circumstances, only two bidders had participated in the auction and the same was cancelled. Again on 10-11-2004, the Secretary of the Gram Panchayat has issued another public auction notice fixing the date of public auction on 17-11-2004. That on 16-11-2004, the 3rd respondent orally informed the Secretary of the Gram Panchayat to stop the proposed auction on 17-10-2004. Thus, on oral instructions of

the 3rd respondent, the public auction proposed on 17-10-2004 was not conducted. Hence, the writ petition.

Learned counsel for petitioner submitted that there is no Rajaka Society in the village and the Peddacheruvu was divided into two parts and one part in an extent of Ac.2-00 was already allotted to the local washermen and there is no reason for interference of the Rajakas with the auction of the fishing rights of the subject tanks. It is also stated that based on oral instructions of the third respondent the auction proceedings were stalled and the Gram Panchayat is losing its revenue.

The matter is being adjourned from 25-11-2004 to enable the Government Pleader to obtain instructions in the matter. An affidavit on behalf of the respondent sworn by the second respondent was filed
inter alia stating that Rajaka society of Pothuluru village made a representation for allotment of the Peddacheruvu to the said society and raised certain objections for auction of the fishing rights and in view of the objections raised by the Rajakas of the village, the 1st respondent has issued telegraphic instructions keeping the proposed auction scheduled to be held on 30-10-2004 in abeyance until further orders.
It is further stated that considering the request of the petitioner, the auction proceedings were permitted, but were directed not to confirm the auction. It is also stated that a fresh notification was issued fixing the date of auction as 17-11-2004 and again a petition was received from farmers and Rajakas objecting for conduct of the auction. It is also stated that the farmers of the village also taken an objection that
if the fishing rights are auctioned, they will be prevented from using the water of the subject tanks, which is used for irrigating their fields in the present drought conditions prevailing in the area. That the petition filed by the farmers and Rajakas was referred to the second respondent for conduct of enquiry in the matter and on receipt of the report, necessary action will be initiated as per rules.

The learned Government Pleader submitted that the enquiry initiated by the 2nd respondent would be completed within a period of
10 days time and on receipt of the enquiry report, a decision in accordance with law would be taken in the matter.

Having heard the contentions raised by respective counsel and taking into consideration the material produced before this Court, the

2nd respondent is directed to complete the enquiry, said to have been initiated by him, within ten (10) days from today, and pass appropriate orders in accordance with law, by 30-12-2004. It is made clear that , if no orders are passed by 30-12-2004 by the 2nd respondent, the Petitioner Gram Panchayat is at liberty to proceed with the auction proceedings in accordance with law.

Subject to above observations, the writ petition is disposed of. No costs.

_____ N.V.RAMANA,J

20-12-2004

TVK

Note: Issue CC in 3 days.

B/o.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.. The District Panchayat Officer, East Godavari District, at Kakinada.
2.. The Divisional Panchayat Officer, Peddapuram, East Godavari

District.
3.. The Extension Officer (PR& RD), Prathipadu Mandal, East Godavri

District.

4.2CCs to G.P. for Panchayat Raj & Rural Development, High Court of A.P. buildings, Hyderabad (OUT)

5.2CD copies

6.2CCs to